

Application Serial No. 10/646,543
Date January 4, 2006
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REMARKS

Upon entry of this Amendment, claims 1-23 remain in the Application. Claims 8, 10 and 16-23 have been withdrawn from consideration as being directed to a nonelected invention. Claims 8 and 10 are withdrawn as being directed to a nonelected species of generic claim 1. Claim 9 is canceled.

The Office Action of October 4, 2005 has been received and carefully considered. In response thereto, this Amendment is submitted. It is respectfully submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Reconsideration is, therefore, respectfully requested.

Claim 7 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Claim 7 has been amended paying careful attention to the concerns raised in the Office Action. It is submitted that by this Amendment, claim 7 now comports with the requirements of 35 U.S.C. § 102, second paragraph.

Rejoinder of withdrawn claims 8 and 10 is sought by this action as it is believed that the claims depend from allowable claim 1

Initially, attention is directed to the certified the translation of the priority document that is made of record in this matter. It is respectfully submitted that, in view of this translation, the Applicant can now rely upon foreign priority papers to overcome the rejection of claims 1-7, 11, and 15 under 35 U.S.C. § 102(a), as being anticipated by Bijkerk.

Claims 1, 4, 5, 7, 11, 14, and 15 currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ito (Japanese Application 60-181264). The Examiner contends that the Ito reference teaches a rotating or linearly oscillating mask (Fig. 1D) having a ratio of free cross sections of the perforations discretely present in the mask, and that the intermediate web surface varies over the total surface (citing Abstract and Figures).

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Claims 1, 2, 4-7, 11, and 15 are rejected under 35 U.S.C. § 102(b) in view of Hollier (FR 2 629 226). The Examiner contends that Hollier teaches a linearly oscillating mask (Figure 3) having a ratio of cross-sections discretely present in the mask and the intermediate web surface that varies over the total surface (citing Abstract and Figures).

Claims 1-7, 11, and 15 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Bijkerk (DE 100 62 713 C1). The Examiner contends that Bijkerk teaches a linearly oscillating mask having a ratio of cross-sections of the perforations being discretely present in the mask and an intermediate web surface that varies over the total surface.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by either Hollier or Ito. Alternately, claim 1 stands rejected under 35 U.S.C. § 102(a) as being anticipated by Bijkerk. Claim 1 has been amended to specify that the ratio of free cross-sections of the perforations and the intermediate web surface per unit area is varied over at least one of the respective distances of the substrate surfaces and inclination of the substrate surface and the mask. For these reasons, it is submitted that the Applicants' invention as set forth in claim 1 is not taught, anticipated, or rendered obvious by any of the cited references.

Claim 2 depends from claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claim 2 is not taught, anticipated, or rendered obvious by the Hollier reference.

Claim 3 has been amended to contain all of the limitations of claims 1 and 2. By this Amendment and in view of the previous discussion regarding the Bijkerk reference, it is submitted that the Applicants' invention as set forth in claim 3 is not taught, anticipated, or rendered obvious by the cited reference.

Claims 4, 5, 7, 11, and 15 currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by either Hollier or Ito. Additionally, claims 4, 5, and 7 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Bijkerk. Claims 4, 5, 7, 11, and 15 depend from independent claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claims 4, 5, and 7 is not taught,

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anticipated, or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 1.

Additionally, claim 5 has been amended to specify that the perforations are formed in a linear column and line arrangement. It is submitted that the cited references fail to teach or suggest such an arrangement.

Claim 6 currently stands rejected under 35 U.S.C. § 102(a) as being anticipated by Bijkerk. It is respectfully submitted that the Bijkerk reference is unavailable as a rejection in this matter. Additionally, claim 6 depends from independent claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claim 6 is not taught, anticipated, or rendered obvious by the cited references for the reasons discussed previously in conjunction with claims 1 and 5.

Claim 14 currently stands rejected under 35 U.S.C. § 102(b) as being anticipated by either Hollier or Ito. Claim 14 depends from claim 13 and ultimately from claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claim 14 is not taught, anticipated, or rendered obvious by the cited references. Additionally, it should be noted that claim 14 depends from claim 13. Claim 13 currently stands rejected under 35 U.S.C. § 103(a). Applicants question how claim 14 can be rejected under § 102(b).

Claims 12 and 13 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over either Ito, Hollier or Bijkerk. Claims 12 and 13 depend from claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicants' invention as set forth in claims 12 and 13 is not taught, anticipated, or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 1.

In summary, claims 1-7 and 11-14 have been amended by this action. Discussion has been presented as to why the Applicants' invention as set forth in claims 1-7 and 11-14 is not taught, anticipated, or rendered obvious by the cited references. It is respectfully submitted that in view of this Amendment and the discussion, the Applicants' invention as set forth in claims 1-

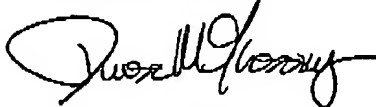
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7 and 11-14 is in a condition suitable for allowance. Notice of allowance is, therefore, respectfully requested.

Respectfully submitted,

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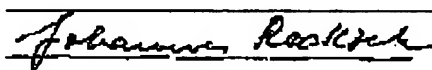
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stefan Braum & Hermann Mai
Serial Number: 10/646,543
Filing Date: August 21, 2003
Examiner/Art Group Unit: Jeffrie Robert Lund/1763
Title: DEVICE AND METHOD FOR THE FORMATION OF GRADIENT
LAYERS ON SUBSTRATES IN A VACUUM CHAMBER

DECLARATION OF TRANSLATOR

I, *Johannes Reckzeh* declare that have reviewed the translation of the priority document identified as FRAUNHOFER-GESELLSCHAFT ... e.V. 02F40262-IWS from German into English and attest that the attached English translation is a literal translation of the document.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Dated: January 4th, 2006